

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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HARIS RADONCIC,

Plaintiff,

-against-

E & A WORLDWIDE TRADERS INC. and ELAN  
ELIAV *jointly and severally*,

Defendants.

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ELAN ELIAV *jointly and severally* and E & A  
WORLDWIDE TRADERS INC.,

Third-Party Plaintiffs,

-against-

MILLENNIUM PRODUCTS GROUP, LLC., CLOSEOUT  
BINGE, INC. and STEVEN GOLDMEIER,

Third-Party Defendants.

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**LINDSAY, Magistrate Judge:**

Before the Court, on referral from District Judge Feuerstein, is the motion of the plaintiff/third-party defendants to dismiss the defendants' counterclaims and third-party complaint pursuant to Federal Rule of Civil Procedure ("Rule") 12(b)(6) and the motion of the plaintiff to amend the complaint to assert claims of retaliation under the FLSA and the NYLL against the defendants in connection with their filing of those counterclaims and third-party claims as well as to correct certain deficiencies found in the plaintiff's seventh cause of action. For the reasons set forth below, the undersigned respectfully recommends that both motions be denied with leave to renew.

As is fully explained in the undersigned's order issued in connection with this report, on

**REPORT AND  
RECOMMENDATION  
18-CV-1858 (SJF) (ARL)**

June 25, 2019, Pardalis & Nohavicka LLP sought leave to withdraw as counsel for the third-party defendants, Millennium Products Group, LLC (“Millennium”) and Steven Goldmeier (“Goldmeier”). That motion was granted. Millennium and Goldmeier have been given 30 days to obtain new counsel and discovery has been stayed as Millennium cannot proceed *pro se*. *Rowland v. Calif. Men's Colony*, 506 U.S. 194, 202-03 (1993). Moreover, Millennium’s ability to retain new counsel may impact the Court’s determination with respect to the pending motions. Accordingly, the undersigned respectfully recommends to District Judge Feuerstein that the plaintiff/third-party defendants’ motion to dismiss [ECF No. 51] and the plaintiff’s motion to amend the complaint [ECF No. 42] be temporarily denied with leave to reinstate after the issue of the third-party defendants’ representation can be adequately addressed by the Court.

A copy of this Report and Recommendation is being electronically served by the Court on the parties. Counsel for the plaintiff is directed to serve a copy of this report on Millennium and Goldmeier immediately upon receipt. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule 72 of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report and Recommendation to file written objections. Such objections shall be filed with the Clerk of the Court via ECF. Any requests for an extension of time for filing objections must be directed to Judge Feuerstein prior to the expiration of the fourteen (14) day period for filing objections. Failure to file objections will result in a waiver of those objections for purposes of appeal of the District Court’s Order. *See* 28 U.S.C. § 636(b)(1); Fed R. Civ. P 72; *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010); *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v.*

*Merchant's Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York  
July 8, 2019

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ARLENE R. LINDSAY  
United States Magistrate Judge